

III. REMARKS

Claims 1-4, 6-19 and 21-24 are currently pending. Claims 5 and 20 have been previously canceled, and claims 16 and 21 are amended herein. No new matter is believed added.

Claim 21 was objected to and has been amended herein to address the informality. Claims 16 and 21 are rejected under 35 USC 112, second paragraph, as being indefinite. Claims 16 and 21 have been amended herein to address the rejection. Accordingly, Applicant requests withdrawal of the rejection.

Claims 1, 4, 6, 7, 9, 10, 13, 14 and 16-19 are rejected under 35 USC 103(a) as allegedly being unpatentable over Ahmavaara et al., US Patent 6,842,445, hereinafter "Ahmavaara." Claims 2, 3, 8, 11, 12, 15, and 21-24 are rejected under 35 USC 103(a) as allegedly being unpatentable over Ahmavaara in view of Gubbi, US 6,934,752, hereinafter "Gubbi".

Applicants respectfully submit that all claims are allowable over the cited art. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP 706.02(j).

With regard to claim 1, Applicants respectfully submit that the prior art fails to teach or suggest all of the claim limitations. Specifically, Ahmavaara does not teach or suggest, *inter alia*, "**determining whether said received packet is a retransmitted packet by examining a medium access control (MAC) frame in said received packet and said stored packet**" (emphasis added), as in claim 1. In fact, Ahmavaara does not teach, or suggest, any type of

examination of the MAC frame, nor of determining whether a received packet is a retransmitted packet based on such a determination.

In the Office Action, the Examiner admits that “Ahmavaara does not explicitly teach the determination of whether a received packet is a retransmitted packet by examining a medium access control (MAC) frame in the received packet.” Office Action, page 4. The Office further argues that because Ahmavaara allegedly teaches that “soft combining of several transmissions (initial transmission and retransmission) when erroneous packets are not discarded requires that a retransmitted MAC PDU has to be identical to the originally transmitted MAC PDU”, that Ahmavaara *impliedly* must have identical MAC headers in order to use soft combining. The Office concludes that it would be obvious to one of ordinary skill, given these teachings, to then “*imply*” a method of comparing the MAC header fields of a stored packet with an incoming packet to determine whether the incoming packet is a retransmitted packet (i.e., MAC headers are identical) and ultimately whether to combine these packets. Office Action, “Response to Arguments” at pages 7-8.

Applicants respectfully traverse these conclusions based on the following reasons. First, to make the conclusion that the present invention is obvious in view of the cited art based on these various implications that the Office has made is incorrect and illogical based on the teaching of Ahmavaara. Ahmavaara clearly teaches away from “examining a medium access control (MAC) frame in said received packet and said stored packet” to “determining whether said received packet is a retransmitted packet.” While Col. 5, lines 17-28, of Ahmavaara does disclose the requirement for identical PAC PDU's in order to soft combine transmissions, other portions of Ahmavaara disclose *how* Ahmavaara meets this requirement. In short, Ahmavaara employs a completely different way of meeting the soft combining/identical PAC PDU

requirement than the present invention that does not look to the MAC frame, and the information contained therein. In fact, Ahmavaara does not have a reason to look to the MAC frame. In brief, Ahmavaara employs an outband signaling method that “unambiguously indicates [] the exact time or physical location, the first transmission was carried out”. Abstract. Col. 5, lines 28-52, discuss at length how Ahmavaara meets the soft combining requirement, and yet, never discloses any examination MAC frame information. Thus, while the present invention includes examining MAC frame information to determine whether a packet is retransmitted, Ahmaveera at its core uses a type of time guaranteeing method that employs outbound signaling information to determine and verify the exact and precise time of transmission of the initial version of the data packet. (See e.g., claim 1). This is wholly different than the claimed invention. Just as the present invention does not need outband signaling to identify retransmitted packets neither does Ahmavaara need to examine MAC frames for any reason. Ahmavaara clearly teaches away from the claimed invention.

Furthermore, the only reason that Ahmavaara states that MAC PDU's are identical is because Ahmavaara teaches that “there may be a need to change some header information between the original transmission and the retransmission.” (See column 10, lines 30-35). Ahmavaara never teaches or discloses explicitly, nor even suggests implicitly, that the MAC header data should be examined to determine whether a current packet is a retransmission. Thus, without the use of hindsight, one skilled in the art would not find it obvious to modify Ahmavaara as suggested in the Office Action. Accordingly, Ahmavaara not only fails to provide any suggestion or motivation to use a MAC frame itself as a mechanism for determining if the current frame is a retransmission frame, but teaches a completely different process for making such a determination.

In light of this, Applicants submit that claim 1 (and similarly independent claims 9 and 16) is allowable. The remaining dependent claims are believed allowable for the reasons stated above, as well as for their own additional features. Applicants submit that Gubbi fails to address the glaring deficiencies in Ahmavaara noted above.

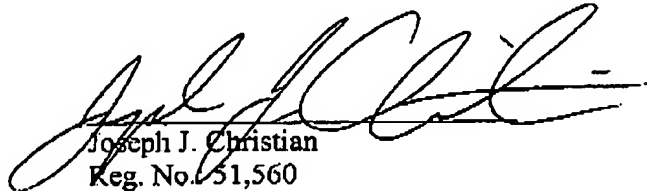
Applicants respectfully submit that the application is in condition for allowance. If the Examiner believes that anything further is necessary to place the application in condition for allowance, the Examiner is requested to contact Applicants' undersigned representative at the telephone number listed below.

IV. CONCLUSION

In light of the above remarks, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

Date: April 5, 2006


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